



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Paper No. 11

Todd A. Noah  
Dergosits & Noah LLP  
Four Embarcadero Ctr.  
Ste. 1150  
San Francisco, CA 94111

**COPY MAILED**

**OCT 08 1998**

In re Patent No. 4,682,857 :  
Issue Date: July 28, 1987 :  
Application No. 06/718,866 : NOTICE  
Filed: April 2, 1985 :  
Attorney Docket No. 254.01 :

**SPECIAL PROGRAMS OFFICE  
DAC FOR PATENTS**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc., No. 97-1128, -1280, -1453, 1998 U.S. App. LEXIS 21409, at \*30 (Fed. Cir. Sept. 1, 1998). Therefore, your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

In view thereof, the petition to reinstate submitted July 28, 1997 is unnecessary. Therefore, the \$1490 balance of the surcharge fee (\$110 of the \$1600 submitted for the surcharge was applied to the second maintenance fee) is being credited to deposit account no. 04-0822 as authorized.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Files Repository.

*Karen Creasy*

Karen Creasy  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects